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MONTANA EIGHTEENTH JUDICIAL DISTRICT COURT GALLATIN COUNTY

MICHAEL A. ROUCHLEAU, and KIM
ROUCHLEAU and JOSEPH ROUCHLEAU, as
parents and guardians of Michael A Rouchleau,

Plaintiffs,

vs.

THREE FORKS HIGH SCHOOL NO. J24, a
Montana state governmental agency,

Defendant.

Cause No. DV-12-2600
Department No. 3

COMPLAINT FOR DAMAGES

1 Summons Issued

Plaintiffs, Michael A. Rouchleau, Kim Rouchleau and Joseph Rouchleau allege as follows:

I. PARTIES, JURISDICTION AND VENUE

1. Michael Rouchleau, Kim Rouchleau and Joseph Rouchleau are residents of Gallatin County, Three Forks, Montana. Michael Rouchleau was born on May 4, 1993.
2. Kim Rouchleau and Joseph Rouchleau are Michael Rouchleau's parents and guardians.
3. THREE FORKS HIGH SCHOOL NO. J24 is a Montana state governmental entity, and is located in Gallatin County, Three Forks, Montana.
4. The incidents complained of herein occurred in Gallatin County, Three Forks, Montana, or arose out of Defendant's conduct in Gallatin County, Three Forks, Montana.

5. Pursuant to MCA 27-1-512 and 2-9-301, a Notice of Claim has been filed with Defendant more than 120 days prior to filing this lawsuit.

II. FACTS

6. On August 21, 2009, Michael Rouchleau (Michael) was a Three Forks High School junior who played on the Varsity football team. On this date, he was participating in a football practice at the school when he and another player collided heads and Michael was shaken up.

7. On this same day, August 21, 2009, immediately following the collision described above, Michael was instructed by the football coaches to return to practice. Shortly thereafter he was instructed by his coaches to participate in a linebacker drill, where he and other players were lined up face-to-face. Michael ran with the football, with the coach telling him which way to run. Michael was tackled by another player with head-to-head contact. Michael and the other player sustained concussions and were vomiting on the field. The coach contacted Michael's mother, Kim Rouchleau, who had him evaluated at a medical facility. Michael was diagnosed with a concussion, and the attending physician prepared a note stating that he was not to play football for four days. The note instructed that after the four days, Michael could participate in non-contact activities for one week, which equates to eleven days after the initial impact. Michael's mother returned him to school, spoke with the coaches and provided them the doctor's note. The coaches indicated that if Michael wanted to stay on the team he would have to show up for practices, but that he would not be asked to play football until medically cleared.

8. Six days after the impact described above, Michael returned to a team practice and sat on the bench in his street clothes. His coaches told him to get in uniform and pad up. Michael did so and returned to sit on the bench. The coaches told him to get out and hit bags, stating that it wouldn't be considered contact play. The coaches also told Michael that if he wanted to play

Varsity, he would have to get off the bench and run some plays. Michael did as instructed by his coaches, and during one practice play under the coaches' direction the football was thrown to Michael. He was shoulder/helmet impacted by the largest linebacker on the team, and was knocked unconscious. He woke to find himself being carried off the field. Despite being knocked unconscious and receiving an obvious second concussion, the coaches did not call 911, did not contact the school nurse, and did not contact Michael's parents. They merely sat him on the sidelines and sent him home after practice.

9. The Three Forks High School Policy Manual states that schools are responsible for providing first aid or emergency treatment in case of a sudden illness or injury to a student, but that further medical attention is the responsibility of the parent or guardian. When a student is injured, staff shall provide immediate care and attention until relieved by a superior, a nurse, or a doctor. The principal or designated staff member should immediately contact the parent so that the parent can arrange for the care or treatment of the injured student. *Three Forks High School Policy Manual, Rule 3431 on Emergency Treatment.* This was not done.

10. Michael's mother, Kim Rouchleau, learned about this incident only after being told by Michael's older brother, who also played on the same football team and brought Michael home from practice that day. She immediately took him to a hospital emergency room, where he was diagnosed with another concussion.

11. After Michael sustained his injuries, described above, he outwardly exhibited the characteristics of a brain injury. When he returned to the Three Forks High School, he complained that he was confused and did not comprehend what was going on in class. Despite Michael's obvious circumstances and special needs, Defendant provided no special assistance or attention; rather, Michael became the subject of ridicule and teasing by his coaches, teachers and

peers. As a result, Michael's parents made the difficult decision to remove him from the Three Forks High School, and sent him to live with family in California where he could attend a different school, and received concerted rehabilitative treatment for his traumatic brain injury.

III. INJURIES

12. As a result of the incidents above-described, Michael sustained serious injuries, to include, but not limited to, a severe brain injury.

13. Michael continues to have ongoing neurological and brain injury deficits, including but not limited to, severe headaches, vision impairment, auditory abnormalities, seizures, cognitive shortfalls, memory loss, attentional and educational deficits, and emotional and behavioral difficulties.

14. As a result of the incidents above-described Kim Rouchleau and Joseph Rouchleau, as parents and guardians of Michael Rouchleau, suffered loss of parental consortium and emotional distress.

IV. NEGLIGENCE

15. Michaels' injuries were caused by the negligence of Three Forks High School. Defendant was negligent in instructing Michael Rouchleau to return to play without satisfactory medical clearance after the first concussions. Three Forks High School was specifically aware of Michael's history of concussion, as it had been sustained while playing football for said school. Defendant directed Michael, a teenager, to suit up and practice, against the direct orders of Michael's physician. Defendant's agents, i.e. the Three Forks High School coaching staff negligently supervised Michael. Finally, Defendant violated its policy concerning the care and treatment of an injured student in an attempt to avoid attention to the incident.

V. DAMAGES

16. Items of damages suffered by Plaintiff Michael Rouchleau are:

(a) General damages, including past and future mental and physical pain and suffering, loss of the ability to enjoy life, and disability.

(b) Medical costs and expenses, past and future.

(c) Loss of earnings and impairment of earning capacity.

(d) Other damages permitted by law.

17. Items of damages for plaintiffs Kim Rouchleau and Joseph Rouchleau are:

(a) Loss of parental consortium and emotional distress

(b) Other damages permitted by law.

VI. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment against Defendant for damages in amounts to be proven at trial, together with costs and disbursements incurred with prejudgment interest, and for such other relief as the Court may deem just and equitable.

DATED this 12 day of April 2012.

SAND LAW OFFICE



Michael P. Sand
Attorney for Plaintiff